

REMARKS

The Examiner's communication dated November 16, 2005 has been received and carefully considered. In conformance with the applicable statutory requirements, this paper constitutes a complete reply and/or a bona fide attempt to advance the application to allowance. Specifically, claims 1-12, 17 and 22 have been cancelled; claims 13-16, and 18-21 have been amended and claims 23-36 have been added. In addition, detailed arguments in support of patentability are presented. Reexamination and/or reconsideration of the application as amended are respectfully requested.

Summary of the Office Action

Claims 1-3, 5-8, 12 and 20-22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Habdas (U.S. Patent No. 5,741,039).

Claims 4, 13 and 15-17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Habdas in view of the "Applicant's Admissions".

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Habdas in view of Grower (U.S. Patent No. 5,169,201).

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Habdas.

Claims 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Habdas in view of the "Applicant's Admissions" as applied to claims 13 and 15-17, and further in view of Seksaria et al. (U.S. Patent No. 6,672,642).

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Habdas in view of Smith (U.S. Patent No. 2,806,735).

The Claims Distinguish Patentability Over the Reference(s) of Record

Claim 13 has been amended to call for a structural cladding adjacent and connected to a raised section of a frame along both the top edge and the bottom edge of the frame for spreading any loads applied to the structural cladding to both the top edge and the bottom edge of the frame. Amended claim 13 further calls for the raised section to extend longitudinally along at least the top edge and the bottom edge of the frame. Applicant

respectfully submits that none of the references of record disclose or fairly suggest the vehicle closure structure called for in claim 13.

More particularly, the primary reference relied upon by the Examiner appears to be Habdas. In Habdas, the alleged structural cladding 2 is attached to alleged frame 8 only along a top edge thereof. In particular, alleged cladding 2 is pivotally attached to the alleged frame 8 at the top edge. The pivotal attachment allows the alleged cladding 2 to move relative to the alleged frame as illustrated in Figure 4 of Habdas. In contrast, claim 13 requires a structural cladding to be connected to a raised section of a frame along both a top edge and a bottom edge of the frame. As indicated in claim 13, this is for spreading any loads applied to the cladding to both the top edge and the bottom edge of the frame. The alleged cladding 2 in Habdas is not connected to a raised section along a bottom edge of alleged frame 8 and therefore cannot spread any loads applied to the member 2 to the bottom edge of the alleged frame 8.

For at least this reason, Applicant submits that claim 13 and claims 14-18 and 23-26 are in condition for allowance.

Dependent claim 14 calls for an opening to be defined approximately centrally on the frame of claim 13 and further calls for a control mechanism to be directly mounted to the inner flange of the claim 13 frame in the opening defined therein. With reference to Figure 1 of Habdas, there is no opening defined in alleged frame 8. The alleged frame 8 of Habdas appears to be a solid structure without an opening such that no control mechanism could possibly be mounted in an opening of the alleged frame 8.

Dependent claim 23, which depends from claim 13, calls for a first plurality of fasteners fixedly connecting the structural cladding to the frame along the top edge and second plurality of fasteners fixedly connecting the structural cladding to the frame along the bottom edge. There are no such fasteners disclosed in Habdas, including fasteners that are bolts as called for in dependent claim 24 (dependent from claim 23).

Claim 19 calls for a sheet metal frame having an upper embossed area and a lower embossed area. This frame defines an opening between the upper and lower embossed areas for receiving a control mechanism therein. Claim 19 further calls for a cladding formed on sheet molding compound attached to the frame upper embossed area and to the frame lower embossed area. A skin is attached to the frame and defines a handle opening aligned with the frame opening for receiving a handle connected to the control

mechanism. Still further, claim 19 calls for a cap received over the frame upper embossed area and secured against the cladding and the skin. Applicant respectfully submits that none of the references of record, alone or in combination, disclose or fairly suggest the vehicle load carrying bed including the dual-axis tailgate of claim 19.

As already indicated herein, the Habdas tailgate does not define an opening in the alleged frame 8. Also, the Habdas alleged cladding 2 is not attached to a frame upper embossed area and to a frame lower embossed area. Rather, the alleged cladding 2 is pivotally attached to alleged frame 8 only along an upper edge of the Habdas tailgate and is pivotally movable relative thereto. Thus, the alleged cladding 2 is not attached to a frame lower embossed area of alleged frame 8 as required by claim 19. Still further, the Habdas tailgate does not include a handle opening defined in a skin that is aligned with a frame opening for receiving a handle connected to a control mechanism received in the frame opening. Finally, there is no cap, such as called for in claim 19, disclosed or fairly suggested in connection with the Habdas tailgate. For all of these reasons, Applicant respectfully submits that claim 19 and claim 27 dependent therefrom are in condition for allowance.

New claim 28 calls for a frame defining an opening therethrough between first and second raised sections of the frame that together form a reinforced cross-sectional shape of the frame. Again, Applicant respectfully submits that the references of record, including the primary reference Habdas, fail to disclose or fairly suggest such a frame. Rather, in Habdas, the alleged frame 8 appears to be a solid structure (see Figure 1). There is no opening in the Habdas alleged frame 8, so there can be no opening defined in a frame between first and second raised sections. For at least this reason, Applicant respectfully submits that claim 28 and claims 20-21 and 29-36 are in condition for allowance.

CONCLUSION

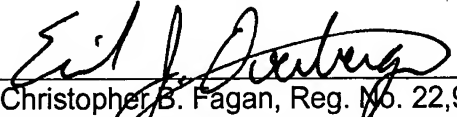
All formal and informal matters having been addressed, it is respectfully submitted that this application is in condition for allowance. It is believed that the claim changes clearly place the application in condition for allowance, defining over any fair teaching attributable to the references of record. Alternatively, if the Examiner is of the view that the application is not in clear condition for allowance, it is requested that the Examiner

telephone the undersigned for purposes of conducting a telephone interview to resolve any outstanding differences. Accordingly, an early notice of allowance is earnestly solicited.

Respectfully submitted,

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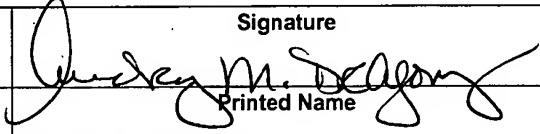
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Date


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CERTIFICATE OF MAILING

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